

**State of California**  
**California Occupational Safety and Health Appeals Board**  
**Closed Session Agenda**

**Government Code § 11126 (a), (c)(3), (e) and (f)**

**For**

**Thursday, March 18, 2021**

**9:30 a.m.**

**Held on Zoom**

**To: Members of the California Occupational Safety & Health Appeals Board**

**From: J. Jeffrey Mojcher, Chief Counsel**

**Date: March 5, 2021**

**RE: Closed Session of the Board to be held on March 18, 2021**

**Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.**

**Decisions Of Administrative Law Judges:**

*(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)*

1330738 Home Depot U.S.A., Inc.

**Petitions For Reconsideration:**

*(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)*

1357982 Arrowhead Brass and Plumbing, LLC

1326533 Cedar Fair, LP

1442360 Grimmway Enterprises, Inc.

- 1105855 Jeff Alexander Farming
- 1331340 U.S. Pipe and Foundry Company
- 1451098 Walt Oxley Enterprises, Inc.

**Petitions For Reconsideration (Second Review):**

- 1410726 Hathaway Dinwiddie Construction Co.
- 316347038 Midwest Roofing & Solar

**Orders Dismissing Appeal:**

- 1406118 Goodwill Distribution Center
- 1424523 Shenzhen Beautiful Garden Land

**Orders Denying Leave To File Late Appeal:**

None

**Matters Pending Reconsideration:**

*(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)*

*The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed so as to assist those interested in research or public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under authority of Labor Code sections 6620 through 6623.*

- 1272378 Andrew Harrison Barnes  
*Whether Mr. Barnes was/is an employer.*
- 1268738 Arizona Tile, LLC.  
*Whether the hearing should be continued.*
- 1141604 Boy Racer Inc. DBA Burning Angel  
(Employer's Petition)  
*Whether adult film performers are employees or independent contractors.*

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

- 1141604 Boy Racer Inc. DBA Burning Angel  
(Dosh's Petition)  
*Whether adult film performers are employees or independent contractors.*
- 1246527 Cemex  
*Whether the settlement in this matter was procured by fraud.*
- 316446855 Cybernet Entertainment, LLC, 14-R6D1-0364-0367  
*Whether adult film performers are employees or independent contractors.*
- 1310525 Golden State FC, LLC  
*Whether Employer provided appropriate foot protection under § 3385.*
- 1235643 Granite Construction Co., Inc./Granite Industrial  
*Whether the Division proved exposure to Valley Fever.*
- 1205077 Hanover R S Construction LLC  
*Whether the ALJ committed reversible error in evidentiary rulings regarding the alleged injury and illness prevention plan violation and the forklift operations violations.*
- 1135350 Hill Crane Service Inc.  
*Whether Employer violated the safety orders as alleged.*
- 1290383 Jafec USA, Inc.  
*Whether the ALJ correctly decided the Employer was in violation of a safety order, as alleged.*
- 1173183 L & S Framing, Inc.  
*Whether the stairway involved was a "stairwell." Whether the motion to amend citation was timely and for good cause.*
- 1422951 Lineage Logistics  
*Whether Employer's motion to amend its appeal should be granted.*
- 1290766 Millenium Reinforcing  
*Whether the Employer proved that wearing foot protection would not have prevented the injury. Whether futility is a defense to a personal protective equipment requirement.*
- 1236440 Papich Construction Company, Inc.  
*Whether the Division proved exposure to Valley Fever.*

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

- 1199064 SA Recycling  
*Whether employer established that, the alleged violation was abated at the time of inspection.*
- 1303461 SSA Terminals (Oakland), LLC DBA SSA Marine Terminals  
*Whether Employer violated section 3212(a)(2)(A) as alleged.*
- 1153101 Sunview Vineyards of California, Inc.  
*Whether the Board should reconsider this interlocutory petition. Whether the Division should be required to provide a redacted copy of the complaint to Employer.*
- 1251879 Target Stores, Inc.  
*Whether the employee suffered a serious injury as defined by statute and regulation.*
- 1242676 United Parcel Service, Inc.  
*Whether the cited Employer had an effective IIPP and trained its employees as required.*
- 1384029 USA Waste of California, Inc.  
*Whether the Division proved the alleged violation.*

**Pending Litigation:**

*(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

**Superior Court:**

1. MCM Construction, Inc., 34-2016-80002312 (13-R1D2-3851-3854)
2. Key Energy Service, LLC (12004280)
3. Barnard Impregilo Healy, JV, (317134021), CPF 17-515575
4. R N R Construction, Inc., (1092600) 34-2017-80002632
5. Ashley Furniture Industries, 34-2017-800002750, (1016514)
6. Robinson Mfg., Inc., 30-2019-01067631 (1169633)
7. United Parcel Service, Inc. DBA UPS, 34-2019-80003174 (1116529)
8. Shimmick Construction Company, Inc., 34-2019-80003191 (1059365)

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

9. Process Cooling International, 34-2019-80003220 (1232555)
10. Prestige Painting, 37-2019-00066143 (1367265)
11. Davis Development Company, 34-2020-80003373 (1226084)
12. Vincent Tuomey, RG20061099 (1152851)
13. Golden State Boring & Pipe Jacking, Inc. 34-2020-80003465  
(1308948)
14. Shimmick Construction Co., Inc./Obayashi Corp., 34-2015-80002204  
(12-R3D1-0781) (315525790)
15. Interline Brands, Inc., CIVDS2021813 (1251604)
16. Shimmick Construction Company, Inc., 34-2020-80003550 (1080515)
17. MWL Solutions, 34-2020-80003549 (1436014)
18. Hampton Tedder Electric, 34-2020-80003562 (1233597)
19. Diversified Utility Services, Inc., 34-2020-80003564 (1326355)
20. BMW West, LLC, 34-2021-80003574 (1399613)
21. Southern California Edison, 34-2021-80003580 (1320327)
22. Davis Development Company 34-2021-80003586 (1293194)
23. Downing Construction, Inc. 34-2021-80003585 (1426007)
24. Sierra Forest Products, VCU285853 (1291481)

**Appellate Court:**

1. Lion Farms, LLC, MCV075788 (1070258)
2. Atkinson Construction, LP, 34-2017-80002611, C091705 (317386084)
3. United Parcel Service, B308218, 18STCP03195 (1158285)

**Supreme Court:**

1. Ventura Coastal, F077267 (317808970)

**Other Items:**

1. New and/or interlocutory petitions for reconsideration not filed in time to be agendized.
2. Categorizing the Board's DARs and Denials on the DIR website.
3. Staff attorneys to provide legal analysis, advice and counsel regarding COVID-19 cases.

**Orders Of Administrative Law Judges:**

*(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

1405597	Ambassador Automotive, Inc.
1477625	AMD International Technologies LLC
1498833	AMN Healthcare, Inc.
1441945	B2 Services LLC
1277524	Blackburn Transportation Group, Inc.
1351916	Bragg Investment Company, Inc.
1459364	Browning Contractors, Inc.
1493169	Cadence Gourmet, LLC
1451616	California Air Conveying Corporation
1472069	California Prison Industry Authority
1498457	Capital City Drywall, Inc.
1481791	City Of Vallejo
1483788	Colin's Labor Contractor, Inc.
1483210	Community Home Partners LLC
1324749	Costco Wholesale Corporation

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

1417460	Costco Wholesale Corporation #658
1326355	Diversified Utility Services, Inc.
1473670	Dragonfruit Holdings, LLC
1473260	Fletcher Cove Holdings, LLC
1501969	Forest Energy Corporation
1374750	Garney Pacific, Inc.
1447948	GL Ventura, Inc.
1383733	GP Merger Sub, Inc.
1442360	Grimmway Enterprises, Inc.
1264930	Hakanson Construction
1343096	Hanford City - Waste Water Treatment Plant
1479944	Hughson Nut, Inc.
1461548	Hyun Kim Landscape
1456525	Ismael Jonas Perez Sacarias and Santa Sabina
1420241	Jalal Abdu Karrar, an Individual
1447953	James R. Glidewell, Dental Ceramics, Inc.
1434993	Jose Antonio Gomez Ortiz
1272351	KF Community Care, LLC
1471772	Klink Citrus Association
1473029	Kubota Corporation
1482004	M & J Williams Inc.
1429847	Magic Mountain LLC
1385421	Malley Farms, Inc.

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

1386789	Mariano Moreno and Arcelia Tostado, Individually
1483245	Maxum Petroleum
1465475	Mckinney Packing Inc.
1383499	Metal Supply LLC
1428546	Miller Clark Landscape & Nursery Company
1351910	Morton Grinding, Inc.
1430203	National Renovation Inc.
1470919	Ontario T, Inc.
1447776	Outsource, LLC
1363516	Pacific Southwest Structures, Inc.
1333197	Pearls Farm Labor, Inc.
1435002	Pleasanton Trucking, Inc.
1444074	Quanta Telecommunication Services, LLC
1433574	Rafael Zamorano
1474127	Ramos Oil Co., Inc.
1321781	Rancho Vista Operations, LLC
1458820	RDJJB, Inc.
1495517	River Valley Farms, LLC
1276552	Rosendin Electric, Inc.
1489047	Securitas Security Services
1481804	Skanska USA Civil West California District Inc.
1503793	Solarlux Nana Manufacturing LLC
1489307	Soma Windows, Doors, and Cabinets, Inc.

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

1448264	Somatdary Incorporated
1379062	Target Corporation
1421001	Tradesmen International
1320424	Tutor Perini Corporation
1325392	United Parcel Service, Inc.
1493199	Vadnais Trenchless Services, Inc.
1477786	Vicente Navarrette
1334475	Walmart
1480541	Western General Insurance Company
1321149	William Barranon

**Pending appeals involving covid19-related citations:**

*(The following list consists of pending appeals that involve Covid19-related citations. Find more information about the citations at the [Federal OSHA Website](#). . Type the inspection number in a box and click on the submit button.)*

1475491	Sutter Bay Medical Foundation
1483044	Ruiz Farm Labor
1482809	Serve Max Farm Labor Contractor
1485198	Alfaro Farm Labor Contractor, Inc.
1478209	The UNI Kool Partners
1482004	M & J Williams Inc.
1472716	Sutter Bay Hospitals
1477632	DL Poultry, Inc.
1475440	Sutter Health - California Pacific Medical Center - Mission Bernal
1483569	Vie de France Yamazaki, Inc.

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

1484808	Jobsource North America, Inc.
1473542	Jobsource North America, Inc.
1472876	Sutter Health Memorial Hospital Los Banos
1475234	Amazon.com Services, LLC
1473644	Amazon.com Services, LLC
1476240	Overhill Farms, Inc.
1473510	Overhill Farms, Inc.
1475903	Ralphs Grocery Company
1473922	Cardenas Market, LLC
1472915	Kaiser Permanente Psychiatric Health Facility - Santa Clara
1474956	Kaiser Foundation Hospital Ontario
1472020	Pitman Family Farms
1473517	Kaiser Foundation Hospital - San Francisco
1474250	Ralphs Grocery Company
1472724	Santa Rosa Police Department
1473654	CHA Health Systems, Inc. / CHA Hollywood Medical Center, LP
1476536	Harvest Farms
1472737	University of California, Santa Cruz
1482017	Food 4 Less Holdings Inc.
1476202	Ralphs #222
1476044	Ralphs Grocery Company
1474648	Kaiser Foundation Hospitals
1475605	Kaiser Foundation Hospitals Redwood City Medical Center

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

- 1474630 Kaiser Foundation Hospitals/Kaiser Permanente - Oakland Med.
- 1476723 Smithfield Foods Inc.
- 1474695 Kaiser Foundation Health Plan, Inc.
- 1479073 Integral Senior Living, LLC
- 1479264 Fresh Harvest, Inc.
- 1496706 Morada Produce Company, LLC
- 1476551 Arden Group, Inc.
- 1473356 The Regents of the University of California, Los Angeles
- 1473875 Panorama Meadows Nursing Center, LP
- 1476073 Kaiser Foundation Hospital
- 1475159 Driftwood Hayward Operating Company, LP
- 1478836 Los Angeles County Metropolitan Transportation Authority
- 1482031 United Staffing Associates, LLC
- 1473792 Central Valley Meat Holding Company
- 1476167 Kaiser Foundation Hospitals
- 1476072 Windsor Vallejo Care Center LLC
- 1478727 Doctors Medical Center, Inc.
- 1476882 NorthBay Medical Center
- 1477009 Lusamerica Foods, Inc.
- 1483221 CLW Foods LLC
- 1483678 California Farms Meat Company, Inc.
- 1477051 Marin General Hospital
- 1482369 Fancher Creek Packing LLC

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

1479906	Hayward Sisters Hospital
1484106	DHL Express (USA), Inc.
1475603	Kaiser Permanente Antioch Medical Center
1483240	Stephen H. Smith Farms, Inc.
1482357	H & R Labor Contracting, LLC
1474698	City of Santa Clarita-Santa Clarita Transit
1488121	Apollo Wood Recovery, Inc.
1483438	Mills-Peninsula Medical Center
1483129	Walmart Inc.
1487976	Stevens Creek BMW
1495252	Elkhorn Packing Co. LLC
1482808	Primex Farms, LLC
1477773	Citistaff Solutions, Inc.
1486320	Coldwater Care Center LLC
1485067	Orange County Bagel Partners, L.P.
1477159	Grimmway Enterprises, Inc.
1481574	Daniel C Salas Harvesting, Inc.
1478942	Port City Operating Co LLC
1493465	Cardenas Market
1479549	Kaiser Foundation Hospitals
1481502	Fremont Healthcare Operating Co, LP
1483210	Community Home Partners LLC
1481792	HGST, Inc.

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

1485541	Draeger's Market
1483898	Chipotle Mexican Grill Inc.
1483864	JBM Restaurant Group Inc.
1495407	D'Arrigo Bros. Co. of California
1481860	Carter's Retail Inc.
1486771	Doctors Medical Center, Inc.
1483170	H&B Hospitality LLC
1478378	Kaiser Foundation Hospitals
1483472	California Enterprises Employment, Inc.
1485373	A&A Dasso Farms Inc.
1484306	Olam West Coast, Inc.
1490454	Erickson Framing CA LLC
1480866	State of California, Department of Corrections & Rehabilitation
1485615	OOMA, Inc.
1491837	MV Transportation
1482178	United Parcel Service Inc.
1477528	Tranquility Inc.
1480875	OWB Packers, LLC
1482321	Erickson Framing CA LLC
1487546	Bevill Vineyard Management
1483601	The Fish Company
1495502	AI Pak Labor Inc.
1478155	Kingston Healthcare Center, LLC

California Occupational Safety & Health Appeals Board  
Closed Session Agenda  
Posted March 5, 2021

- 1483470 HR Staffing Solutions, Inc.
- 1478320 Sutter Bay Hospitals
- 1485410 SC Warehouses, Inc.
- 1482360 West Coast Harvesting Inc.
- 1489025 Los Angeles Apparel, Inc.
- 1481220 The Villa Park Orchards Association
- 1489768 State of California, Dept. of Corrections - Avenal State Prison
- 1482518 G.L. Mezzetta Inc.
- 1484564 Integrated Pain Management Medical Group, Inc.
- 1486765 Teledyne Defense Electronics, LLC
- 1489371 Frontier-Kemper Constructors, Inc. and Tutor Perini Corporation
- 1489032 Michael Nicholas Designs, Inc.
- 1486257 The Kroger Company
- 1481476 Marin Resource Recovery Center

**Personnel:**

*(Issues regarding staff.)*

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.